

AMENDED IN ASSEMBLY AUGUST 21, 2008

AMENDED IN ASSEMBLY JUNE 18, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1113

Introduced by Senator Migden

January 22, 2008

An act to amend Section 1021.5 of the Code of Civil Procedure, relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1113, as amended, Migden. Attorney's fee and costs.

Existing law authorizes a court, upon motion, to award attorney's fees to a successful party against one or more opposing parties in any action that has resulted in the enforcement of an important right affecting the public interest, if certain conditions are met.

This bill would authorize the court to award attorney's fees and ~~nonstatutory~~ costs, including expert witness fees, pursuant to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1021.5 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1021.5. (a) Upon motion, a court may award attorney's fees
- 4 and ~~nonstatutory~~ costs, including expert witness fees, to a
- 5 successful party against one or more opposing parties in any action

1 that has resulted in the enforcement of an important right affecting
2 the public interest if all of the following are met:

3 (1) A significant benefit, whether pecuniary or nonpecuniary,
4 has been conferred on the general public or a large class of persons.

5 (2) The necessity and financial burden of private enforcement,
6 or of enforcement by one public entity against another public entity,
7 are such as to make the award appropriate.

8 (3) Those fees should not, in the interest of justice, be paid out
9 of the recovery, if any.

10 (b) With respect to actions involving public entities, this section
11 applies to allowances against, but not in favor of, public entities,
12 and no claim shall be required to be filed therefor, unless one or
13 more successful parties and one or more opposing parties are public
14 entities, in which case no claim shall be required to be filed therefor
15 under Part 3 (commencing with Section 900) of Division 3.6 of
16 Title 1 of the Government Code.

17 (c) Attorney's fees awarded to a public entity pursuant to this
18 section shall not be increased or decreased by a multiplier based
19 upon extrinsic circumstances, as discussed in *Serrano v. Priest*
20 (1977) 20 Cal.3d 25, 49.